

MT LEGISLATIVE HISTORY

Chapter 543 19 82

Bill (H) 564 S _____

Original bill & hist. ____C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Feb 13 ☒ C

Hearing Date(s) Mar 26 ☒ C

Feb 20 ☒ C

____C

____C

____C

____C

____C

Date Out Feb 20 ☒ C

Mar 26 ☒ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

STATUS SHEET

50th LEGISLATIVE SESSION

JUDICIARY

COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON- SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON- CURRED IN DATE	BE NOT CON- CURRED IN DATE	BE CON- CURRED IN AMENDED DATE	BE NOT CONCURRED IN AS AMENDED DATE
495	2/11/87	2/14/87	tabled								
501	2/13/87	2/14/87			2/14/87	2/14/87					
502	2/16/87	2/17/87	2/18/87	tabled							
503		2/9/87	2/17/87	2/17/87							
509		2/16/87	2/16/87			2/16/87					
514		2/10/87	2/20/87	tabled							
522		2/9/87	2/23/87	tabled							
546		2/16/87	2/20/87			2/20/87					
548		2/16/87	2/23/87	tabled							
554		2/10/87	2/10/87	2/10/87							
558		2/13/87	2/16/87			2/16/87					
564		2/11/87	2/20/87			2/20/87					
566		2/12/87	2/21/87			2/21/87					
567		2/11/87				2/23/87					

Use a separate sheet for Senate Bills, House Bills, and Resolutions.

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 13, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on February 13, 1987, at 8:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Mercer who was excused and Rep. Brown who was absent.

HOUSE BILL NO. 564, Rep. Williams, District No. 85, stated that this act revises the law concerning city courts, allowing a city court to extend jurisdiction to the boundary of the county in which it is with justices' courts, providing for procedures in city courts. He stated that this piece of legislation coordinates the justice and city courts. Qualifications of a city judge are established the same as a justice of the peace. He pointed out that towns and cities that are unable to support a city court will be able to enter into an intergovernmental agreement establishing a city court judicial district with the county. All actions in city courts will be governed by the rules of civil procedure. This bill also provides for temporary judges in the absence of qualifications of city judges, or in the event of illness.

PROPOSERS:

LARRY HERMAN, Laurel, City Judge and a member of the Commission on Courts of limited Jurisdiction and a practicing attorney, submitted written testimony as (Exhibit A). He stated that this bill will correct a number of problems in the city courts. He further stated that HB 564 addresses the problems of the city courts directly and will coordinate all procedures to the justice courts. It will also coordinate the mandated education and certification program required for judges of all courts of limited jurisdiction. He strongly recommended consideration.

JIM HAYNES, Montana Magistrates Association, stated that this bill attempts to clean up matters and to address the Attorney General's opinion that says the justice of the peace can no longer work their cities and towns. He urged support for this legislation.

WALLACE E. JONES, City of Three Forks, urges passage of HB 564, allowing the substitution of city judges one for the other. He submitted written testimony. (Exhibit B).

KENNETH SNIVELY, Justice of the Peace, Hardin, stated that passage of this specific bill will help solve some of the problems that have existed in the past. He submitted written testimony. (Exhibit C).

GERALD D. MORGAN, City Judge, Manhattan, urged support for HB 654 and submitted written testimony. (Exhibit D).

PATRICIA BRADLEY, Justice of the Peace, Roosevelt County, stated that the current conundrum is broke and needs to be fixed. He sent in written testimony. (Exhibit E).

LORRAINE C. BIGGS, Justice of the Peace, Anaconda, urged a vote for HB 564 in its entirety. Written testimony was sent in. (Exhibit F).

PATRICIA BRADLEY, Justice of the Peace, Roosevelt County, stated that this bill will provide for mutual satisfaction on the part of the county and the town, and work within the framework of the Constitution and the law. She submitted written testimony. (Exhibit G).

JAMES E. BALDWIN, Mayor, Culbertson, stated that the present arbitrary ruling of residency will cause duplication of services and costs to our community. He submitted written testimony. (Exhibit H).

O. W. BRANSON, Belgrade City judge, urged support for HB 564 and submitted written testimony. (Exhibit I).

J. S. POLK, City Magistrate, Plentywood, stated that this bill addresses the rescheduling of city judges elections to correspond with justice of the peace election years. He submitted written testimony. (Exhibit J).

There were no further proponents, no opponents and no questions.

Rep. Williams closed the hearing on HB 564 by stating that this is an important piece of legislation and the proposed amendment would be welcome.

HOUSE BILL NO. 501, Rep. Cody, District No. 20, stated that this bill provides for an interpleader in small claims court procedure. She pointed out that if the broker has a question about who should receive the earnest money deposit up to \$1500.00 this legislation would allow the broker to ask the small claims court to make that decision.

PROPOSERS:

on intensive therapy or corrections. She urged support and submitted written testimony. (Exhibit C).

DEANNA ANDERSON, Butte, Board Member of the Big Brothers and Sisters Program, stated that this program builds self-esteem and she urged support for this bill and interest toward becoming a volunteer.

JOANNE SHERWOOD, Helena, stated that she favors the divorce fee increase. She pointed out that the program works at the root of the problem with juvenile delinquency and she urged that a portion of the divorce fee be earmarked. She submitted written testimony. (Exhibit D).

STANLEY ROSENBERG, Bozeman, went on record in support of this legislation.

DAVE FULLER pointed out that 78% of the program's money is privately raised and he urged support for this bill.

There were no opponents to this bill.

Rep. Winslow closed the hearing on HB 448 by stating that if fees for divorces were increased, maybe there would not be an increase in divorces.

HOUSE BILL NO. 491, Rep. Spaeth, District No. 84, stated that this act submits to the qualified electors of Montana an amendment to article VII, Section 9, of the Montana Constitution to provide that the Legislature may establish specific residency requirements for judges other than Supreme Court justices, District Court judges and justices of the peace. He stated that small towns are facing a problem and HB 491 is broad based and will cover the problems.

JIM HAYNES, Montana Magistrate Association, stated that he agrees with this bill as a direct way of solving the problem and he urged support.

ALEC HANSEN, Montana League of Cities and Towns, urged support for this legislation.

REP. SCHYE, went on record in support of HB 491.

LARRY HERMAN, Laurel, City Judge and a member of the Commission on Courts of limited Jurisdiction and a practicing attorney, stated that HB 564 has a better chance of passage but he does support this bill.

Rep. Speath closed the hearing on HB 491.

DAILY ROLL CALL
JUDICIARY

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 13, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)			✓
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)	✓		
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)		✓	
EARL LORY (R)	✓		

EXHIBIT H

DATE 2-13-87

HB # 564

TESTIMONY H.B. 564

My name is Larry Herman, I am the City Judge of Laurel, a member of the Commission on Courts of Limited Jurisdiction and a practicing attorney.

H.B. 564 will correct a number of problems in the City Courts.

First, the city judge will be required to establish regular sessions of the city court. This is important to the public's access to the city court.

Second, in third class cities or towns the justice court may be deligated to serve a third class city or town as its city court. This is accomplished without increasing the exclusive jurisdiction of the city court. Third class cities and towns unable to maintain a city court and city judge could designate the justice court, not a specific justice of the peace, to act as its city court and enter into an agreement with the county for proportionate payment of the salary, schooling and benefits of the justice of the peace. As the city judge is an officer of the city under 7-4-4102 and 7-4-4103 in third class cities and towns, H.B. 564 addresses the delegation of a justice court to serve as city court.

H.B. 564 coordinates the offices of city judge and justice of the peace. A justice of the peace of a justice court delegated to serve as city judge would hold the offices for four years, his term of office. The city or town would not be able to terminate the designation during the term of a justice of the peace. H.B. 564 corrects the constitutional infirmity raised by the Supreme Court in State exrel Morales v City commission, 174 Mont 237, i.e. termination at will in violation of separation of power. However, the delegation could be terminated by the city or town at the end of a term.

EXHIBIT *H*

DATE *3-13-87*

564

The constitutional infirmity raised by Article VII, Section 9 (4), is corrected in creating a new residency boundary. The intergovernmental agreement would establish a city court district with the county. It eliminates the city or town residency requirement by creating a city court residency boundary coextensive with the county. The justice of the peace serving as city judge would need only reside within the city court district established, i.e., the county. As such the city court district meets the constitutional mandate that the judge must reside in "the district, county, township, precinct, city or town in which he is elected or appointed."

Under Article XI, Section 7, of the Montana Constitution intergovernmental cooperation between government units is permitted to share the services of any officer. H.B. 564 allows the sharing of the justice court by a third class city or town.

The creation of the city court district does not expand the exclusive jurisdiction of a third class city or town. The exclusive jurisdiction remains as defined under 3-11-103. Nor does the district expand the police powers of a city or town beyond that set forth under 7-32-4301 and 7-32-4302. A warrant for a city offense could only be issued in the name of the city and served within the city.

H.B. 564 provides for temporary judges in city courts. Any city judge or justice of the peace could be called in for temporary service. This is important in that judges of courts of limited jurisdiction must be certified by the Supreme Court Commission of Courts of Limited Jurisdiction.

City courts and justice courts have traditionally had the same concurrent jurisdiction within the county. Under the 1889 Constitution the police court (now city court) was declared to be ex officio justices of the peace.

In opinion No. 95 (Vol. 41) the Attorney General observed that the "city court has concurrent jurisdiction with the

EXHIBIT A
DATE 2-13-87
564

justice court of all misdemeanors committed within the county and punishable by a fine not exceeding \$500.00, imprisonment not exceeding six months, or both such fine and imprisonment. . . . All misdemeanors punishable in that manner would include most misdemeanors charged under state law."

During the last legislature it was believed by many that all courts of limited jurisdiction were given jurisdiction over third and subsequent DUI's. The city court was inadvertently omitted. H.B. 564 corrects the error and will allow city court to assume jurisdiction over third and subsequent DUI's charged under state law, and permit the issuance of an arrest warrant that can be executed in any county of the state.

There is some confusion over whether or not the city court has jurisdiction over third and subsequent DUI's in a city which has adopted 61-8-714, including the penalties, as its city ordinance. H.B. 564 will end the confusion. If the city court has jurisdiction under a city ordinance the warrant issued cannot be served outside the city limits. If, however, the city court has jurisdiction under state law, as with first and second violation, the warrant can be issued in the name of the state and served in any county of the state.

H.B. 564 addresses the problems of the city courts directly and will coordinate all procedures to the justice courts. It will also coordinate the mandated education and certification program required for judges of all courts of limited jurisdiction.

I urge your strong consideration of H.B. 564

EXHIBIT B
DATE 2-13-87
564

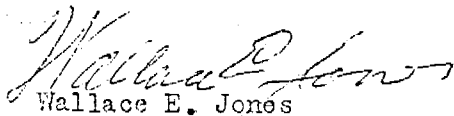
February 9, 1987

Chairman and Members of the Judicial
Committee of the House
State Capital
Helena, Montana 59620

Dear Sirs:

As the City Judge from Three Forks, Montana I urge passage of HB - 564 allowing the substitution of City Judges one for the other. This would result in a savings for the city in mileage expenses when it is necessary to request another judge to come in and hear matters in which I have disqualified myself or have been disqualified.

Sincerely,



Wallace E. Jones
City Judge
City of Three Forks, MT

BIG HORN COUNTY

HARDIN, MONTANA 59034

February 9, 1987

EXHIBIT

DATE 2-13-87

RE # 564

Kenneth Snively
Justice of the Peace
Drawer H
Hardin, Montana 59034

Chairperson, House Judiciary Committee
Helena, Montana

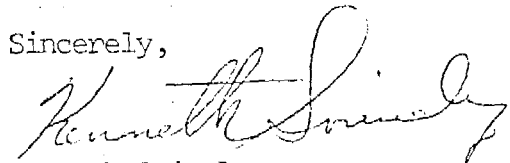
RE: House Bill 564

Dear Chairperson:

I am sending this letter asking you to consider supporting House Bill 564. I feel the passage of this specific bill will help solve some of the problems that have existed in the past.

Thank you for your support in this matter.

Sincerely,



Kenneth Snively
Justice of the Peace

KS/mf

EXHIBIT D

DATE 2-13-87

HB # 564

February 6, 1987

Chairman and Members
House Judicial Committee
Helena, Montana 59620
Gentlemen:

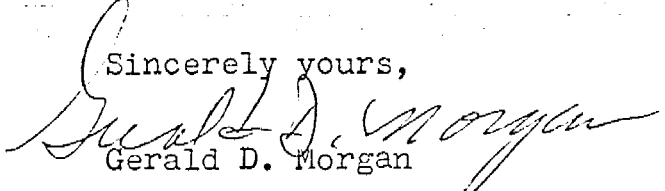
I would certainly urge you to vote for House Bill 564 that is coming up for a vote February 12, 1987.

I feel this bill would accomplish 2 purposes:

- 1) It would certainly save the cities money. We now have bring in a J.P. from West Yellowstone and pay mileage, etc., rather than get a local city judge from a closer area.
- 2) When a city judge has to disqualify himself in a case, we then must choose a local citizen living within the city limits. In many cases this is fine, but in some cases, the lack of experience of the local citizen in running a jury trial could be detrimental to the judicial process.

Thanking you for your consideration in this matter, I remain,

Sincerely yours,


Gerald D. Morgan

City Judge, Manhattan

EXHIBIT K
DATE 2-13-87
HB # 564

JUSTICE COURT FOR THE COUNTY OF ROOSEVELT

STATE OF MONTANA

PATRICIA BRADLEY, JUSTICE OF THE PEACE

BOX 392

CULBERTSON, MT 59218

February 5, 1987

PHONE 787-6661

TO: Honorable Members of the House Judiciary Committee
Capitol, Helena, Mt.

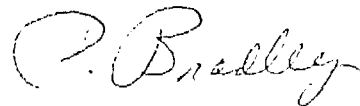
RE: HB 564, an act to allow cities and towns to designate
a City Court Judge

I urge you to consider and adopt HB 564. Towns are
statutorily allowed to appoint or designate a Justice of the
Peace to act also as Town Judge, but the Montana Constitution,
the Attorney General says, precludes this very workable and
cost-saving and convenient arrangement.

This bill, as I understand it, would provide for mutual
satisfaction on the part of the county and the town, and work
within the framework of the Constitution and the Law.

This current conundrum is broke and needs to be fixed--
please do pass.

Thank you.



Patricia Bradley, Justice of the Peace
for Roosevelt County, and
Town Judge for Froid, and
Temporary Acting Judge for Culbertson

JUSTICE COURT

LORRAINE C. BIGGS
JUSTICE OF THE PEACE

EXHIBIT F
DATE 2-13-87
HB # 564

TELEPHONE 563-8421
EXT. 236-237

ANACONDA-DEER LODGE COUNTY
ANACONDA, MONTANA 59711

TO: Judiciary Committee - House of Representatives
FROM: Justice Lorraine C. Biggs
SUBJECT: House Bill 564

Will you please take note of HB-564 and vote for it in its entirety? The Bill concerns City and Justice Courts and it is of the utmost importance to all judges.

Thanks for your cooperation.

Dated this 9th day of February, 1987

Lorraine C. Biggs
Justice of the Peace

cc: Hon. Larry Herman, City Judge, Laurel

TOWN OF CULBERTSON

CULBERTSON, MONTANA

EXHIBIT 11
DATE 2-13-87
HE # 564

Office Of The Mayor

February 6, 1987

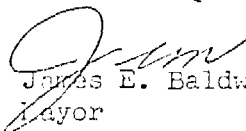
Judge Larry Herman
P.O. Box 217
Laurel, Montana 59044

Dear Judge Herman,

Our Town wishes to go on record in support of H.B. 564, which I understand will straighten out the residency requirements for Town Judges who are J.P. s.

The present arbitrary ruling of residency will cause duplication of services and costs to our community.

Sincerely,


James E. Baldwin
Mayor

CITY OF BELGRADE

STATE OF MONTANA

EXHIBIT 7
DATE 2-13-87
RE # 564

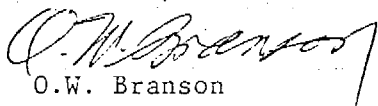
TO: Larry Herman
FROM: O.W. Branson
RE: House Bill #564

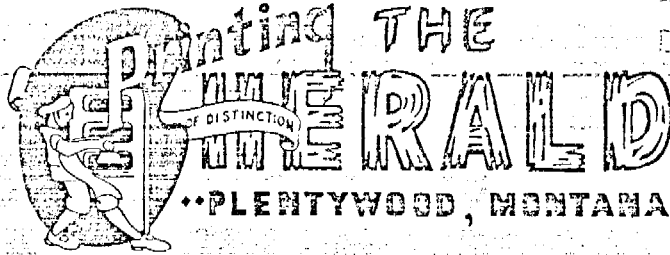
TO: The House Judicial Committee Chariman and Members:

As the City Judge of Belgrade, I respectfully urge you to pass House Bill #564.

This bill would greatly benefit all of the City Judges in the State of Montana.

Sincerely,


O.W. Branson
Belgrade City Judge



EX-112
DATE 2-13-87
564

6 February 1987

Chairman
House Judiciary Committee
Helena, Mt. 59601

Dear Sir:

I would like to urge your support of the City Jurisdiction House Bill which was introduced early this month.

Also addressed is the rescheduling of city judge elections to correspond with Justice of the Peace election years.

Thank you.

Sincerely yours,

J. S. POLK
City Magistrate
Plentywood, Mt 59254

unanimously. (See Amendments Attached). Rep. Giacometto moved that HB 482 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 482 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 564:

Rep. Giacometto moved that HB 564 DO PASS. He moved amendments because certain parts of this bill deal with HB 482 that was just passed. He moved to delete subsection (3) in its entirety and on page 3, section 4, subsection (2), lines 14-16 striking "the salary". Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Giacometto moved that HB 564 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 564 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 475:

Rep. Darko moved that HB 475 DO PASS. She moved amendments. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Gould moved a substitute motion that HB 475 DO NOT PASS as amended. Rep. Mercer moved that HB 475 be TABLED. A voice vote was taken and the motion FAILED 5-9. Rep. Bulger asked that this bill be clarified. Rep. Darko stated that the bill does have some problems and the one problem that she wished to address has to do with an owner/dealer of a gas station who wants to pass the station onto his children upon his death, but he cannot do so, and he will have nothing to give to his children. She pointed out that this bill can be made workable because it is not fair to the people who spend a lifetime running a gas station, and then have little to show for their work. Rep. Bulger said that his understanding of the hearing was that three issues needed to be addressed: 1.) Successor/interest. 2.) Right to incorporate. 3.) Right of first refusal. He stated that maybe there is something that can be saved in the bill, but we cannot pass a bill that is not clear. Rep. Meyers said that this is not a reasonable bill at the present time and we do not have the time to spend correcting it. Rep. Grady pointed out that this is a protectionist bill for the small service stations and it is the habit of the big companies to come in and put these people more or less out on the street over night. He said that perhaps the bill does go too far, but with a few amendments it could be softened up.

Rep. Darko stated that the direction that this bill has been given makes it confusing because it was first put in Business and Labor, and then because they did not know what to

DAILY ROLL CALL
JUDICIARY COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb 20, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)			✓
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

STANDING COMMITTEE REPORT

FEBRUARY 26,

37

19

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 564

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

1. Title, lines 5 through 7.

Strike: "ALLOWING" on line 5 through "LOCATED;" on line 7

2. Title, line 10.

Strike: "3-11-205,"

3. Page 2, lines 1 through 4.

Strike: subsection (3) in its entirety

4. Page 3, lines 14 through 16.

Strike: "The salary" on line 14 through "3-10-207." on line 16

5. Pages 4 and 5.

Strike: section 6 of the bill on page 4, line 14 through line 19
of page 5 in its entirety

AND564A/JM/JM2

FIRST

WHITE

reading copy ()
color

CHAIRMAN--SEN. JOE MAZUREK
NORMAL SCHEDULE==> SITE: ROOM 325

DAYS: MON THRU FRI

TIME: 10:00 A.M.

SECRETARY-MARY HUBER

--BILL NO--	REFER DATE	HEARING DATE	CONSIDERATION DATES	COMMITTEE ACTION	REREFERRED TO COMM	DATE OUT
HB0491	3/02	3/26		CONCUR		3/28
SPAETH, GARY			AMEND CONSTITUTION TO ALLOW RESIDENCY OF LOWER COURT JUDGES BE SET BY LAW			
HB0495	3/02	3/16		CONCUR AS AMENDED		3/21
CORNE, DICK			EXPAND COVERAGE OF OFFENSE OF CUSTODIAL INTERFERENCE			
HB0501	2/21	3/26		CONCUR AS AMENDED		3/26
CODY, DOROTHY			INTERPLEADER IN SMALL CLAIMS COURT PROCEDURE			
HB0503	2/21	3/24		CONCUR AS AMENDED		3/26
BRADLEY, DOROTHY			EXTEND LANDOWNER IMMUNITY TO TOURING OF CULTURAL AND HISTORICAL SITES			
HB0504	3/09			CONCUR AS AMENDED		3/21
KADAS, MIKE			LIMIT CHALLENGES TO INITIATIVES PRIOR TO ELECTION			
HB0509	2/21	3/09		CONCUR AS AMENDED		3/21
SCHYE, TED			PROHIBIT THE OPERATION OF AN AIRCRAFT WHILE UNDER INFLUENCE OF ALCOHOL/DRUGS			
HB0546	3/02	3/09		CONCUR AS AMENDED		3/13
FRITZ, HARRY			MODIFY ABSOLUTE LIABILITY DEFINITION -- APPLY TO DUI OFFENSES			
HB0554	2/16	3/23		CONCUR AS AMENDED		3/26
DAILY, FRITZ			PAY CRIME VICTIMS THE PERPETRATOR'S PROCEEDS OF THE CRIME			
HB0558	2/21	3/09		CONCUR		3/11
GOULD, BUDD			REVISE AND CLARIFY RESPONSIBILITY FOR CRIME COMMITTED WHILE INTOXICATED			
HB0564	3/02	3/26		CONCUR AS AMENDED		3/26
WILLIAMS, MEL			REVISE CITY COURT JURISDICTION AND PROCEDURE			
HB0566	3/02	3/16		CONCUR AS AMENDED		3/17
KEENAN, NANCY			CHILD OR SPOUSE ABUSE TO PRECLUDE JOINT CUSTODY			

to leave the discretion to the local judicial districts and the prosecutor if they want to use this system. Senator Pinsoneault asked if it would be alright to limit the use of this bill to the justice court. Mr. Robinson responded that would be fine. Senator Pinsoneault commented that his experience with bondsmen has been unsuccessful because many times when there has been a forfeiture of a case a bondsman refused to release the bond that he held.

Representative Thoft closed by saying if these offenders don't make a court appearance, and leave the state, maybe that is the best thing for the state. He said the Ravalli County Attorney said these offenders don't run when they are released on their own recognizance, and Representative Thoft thought it was ridiculous that the offender would run when he has an investment in the system. He stated if the committee wanted to make the bill optional for the counties, that would be fine.

CONSIDERATION OF HB 564: Representative Mel Williams, House District #85, introduced HB 564. The bill defines a city court's concurrent jurisdiction with justices' courts; providing for procedures in city court. He said the bill provides for the election and appointment of city judges. He stated the bill expands the jurisdiction of city courts and criminal civil cases. He said it also provides the rules of civil procedure to city courts. He pointed out it clarifies the authorities of municipalities to designate justice courts to serve as city courts. He said the Judiciary Committee in the House coordinated the three measures, HB 482 and HB 491 and HB 564 together.

PROPOSERS: Jim Haynes, Montana Magistrate's Association, supported the bill because it does conform some of the city court responsibilities and it does coordinate with HB 482 and HB 491. He pointed out on page 3, lines 4 through 7, there should be an amendment saying: "as long as this agreement with the city and the county is in affect." He said the agreement he was referring to is in HB 482, which is the entering into an agreement between the city/town and the justice of the peace: to provide that the city could terminate the justice of the peace if they felt it was necessary.

Alec Hanson, League of Cities and Towns, supported the bill and the amendment Mr. Haynes explained.

OPPOSERS: None

DISCUSSION OF HB 564: Senator Crippen asked if the judges approved of the bill. Representative Williams said the judges he talked to agreed with the bill. Senator Halligan asked why the House struck the language on page 2, line 23 through page 3, line 1. Representative Williams said that originally in the bill "appointed" was left out, but it was put back

in because there might be a time when a judge must be appointed. He said if you just have elections, at some point you might be without a judge. He said the House Judiciary Committee put "appointed" back into the bill.

Representative Williams closed.

The committee adjourned the hearing and preceeded with executive action.

ACTION ON HB 482: Senator Brown moved HB 482 BE CONCURRED IN. There was no discussion. The motion carried unanimously.

ACTION ON HB 564: Senator Mazurek said that page 3, line 7 is where the Magistrate's amendment would be placed. He said it is really just a technical change:

Page 3, line 7.

Following: "designation"

Insert: "(or until the agreement provided for in 3-11-205 terminates)"

2. Page 10, line 10.

Following: line 9

Insert: "NEW SECTION. Section 13. Coordination instruction. if House Bill No. 482, including the section of that bill amending 3-11-205, is not passed and passed and approved, the bracketed language in section 3(2) is void."

Renumber: subsequent section

Senator Halligan moved the amendment to pass. The motion carried. Senator Brown moved the bill AS AMENDED BE CONCURRED IN. The motion carried unanimously.

ACTION ON HB 501: Senator Halligan did not agree with the stricken language on page 2, lines 3 through 5. Senator Mazurek felt they should help the people out with an affidavit. Mr. Haynes said they do help people with their affidavits, but he asked where does it say in the law we should. Senator Mazurek said it will say right here in this bill. Senator Halligan moved:

Page 2, line 5.

Following: "assistance."

Insert: "The small claims court judge shall assist any claimant in preparing an affidavit or may direct the clerk of court to provide such assistance."

The motion carried. Senator Blaylock moved the bill AS AMENDED BE CONCURRED IN. The motion carried.

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 2

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>			X
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blavlock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

STANDING COMMITTEE REPORT

hb564.scr

March 26, 19 87

MR. PRESIDENT

JUDICIARY

We, your committee on.....
HOUSE BILL 564

having had under consideration..... No.

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REVISE CITY COURT JURISDICTION AND PROCEDURE

M. WILLIAMS (BLAYLOCK)

Respectfully report as follows: That.....HOUSE BILL..... No. 564
BE AMENDED AS FOLLOWS:

1. Page 3, line 7.

Following: "designated"

Insert: "[or until the agreement provided for in 3-11-205
terminates]"

2. Page 10, line 10.

Following: line 9

Insert: "NEW SECTION. Section 13. Coordination instruction. If
House Bill No. 482, including the section of that bill amending
3-11-205, is not passed and approved, the bracketed language in
section 3(2) is void."

Re-number: subsequent section

AND AS AMENDED,
BE CONCURRED IN

DO PASS

DO NOT PASS

Chairman.

Senator Mazurek